IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.2921 of 2006
Date of Decision: 29.5.2007

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Gurmeet Singh Vs. Financial Commissioner,Appeals-II, Punjab and Ors.

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Present : Mr.Dinesh Goyal, Advocate for the petitioner.
Mr.P.C. Goyal, Sr. DAG, Punjab.
Mr.S.S. Hira, Advocate for respondent no.5.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Prayer in this petition is for quashing the order dateds 8.9.2005 passed by the Financial Commissioner, Appeals-II,Punjab, and dated 14.8.2002, passed by the Deputy Commissioner-cum-Collector, Hoshiarpur.

Counsel for the petitioner contends that the learned Financial Commissioner was not justified in setting aside the order of the Commissioner, appointing the petitioner as the Lambardar. It is contended that as the Commissioner had remanded the case to the Collector, the Financial Commissioner should not have interfered with the aforementioned order. It is further contended that the Commissioner had recorded a specific finding that the Collector had not considered the comparative merits and had only considered the respective merits selectively. It is, therefore,

prayed that the order of the Financial Commissioner be set aside and that of the learned Commissioner be restored.

Counsel for the respondents, however, contends that the order of the Financial Commissioner is legal and valid. The choice of the Collector is final and till such time the Collector's choice is shown to be perverse or illegal, it should be respected.

We have heard learned counsel for the parties and perused the paper book.

The Financial Commissioner, set aside the order passed by the learned Commissioner without assigning any reasons. The learned Financial Commissioner merely held that she disagreed with the observations made by the Commissioner. No reasons for this so called disagreement have been assigned. It is true that as a general rule, the choice of the Collector is final. Appellate and revisional authorities would be entitled to interfere with the choice of the Collector is perverse. However, instead of imposing their own perception on the merits of candidates they should remit the matter to the Collector. In the present case, the Commissioner rightly held that the order of the Collector was perverse but instead of remanding the case to the Collector, the Commissioner proceeded to assess merits of the candidates and ordered appointment of the petitioner as the Lambardar. In our considered opinion, though the learned Commissioner rightly set aside the order of the Collector, he erred in proceeding to select the petitioner as Lambardar. The Commissioner should have remitted the matter to the Collector for a fresh decision, in accordance with law.

Consequently, the order of the Financial Commissioner dated 8.9.2005 is set aside as also the order of the learned Commissioner, in so far as it directs selection of the petitioner Gurmeet Singh and the matter is remitted to the learned Collector, for a decision afresh, in accordance with law.

Parties are directed to appear before the Collector on 23.7.2007. The learned Collector shall decide the matter, within a period of three months, from the aforementioned date.

The petition stands disposed of accordingly.

(RAJIVE BHALLA)
JUDGE

29.5.2007
GS

(P. SATHASIVAM)
JUDGE